

104TH CONGRESS
1ST SESSION

H. R. 2740

To protect sports fans and communities throughout the Nation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 7, 1995

Mr. HOKE (for himself, Mr. BLUTE, Mr. CREMEANS, Mrs. CUBIN, Mr. FLANAGAN, Mr. GUTKNECHT, Mr. HASTINGS of Florida, Mr. HOBSON, Mr. JONES, Mrs. KELLY, Mr. KING, Mr. LATOURETTE, Mr. LIPINSKI, Mr. MEEHAN, Mrs. MEEK of Florida, Ms. MOLINARI, Mr. NEY, Mr. OXLEY, Mr. PETERSON of Minnesota, Mr. PORTMAN, Ms. PRYCE, Mr. QUINN, Mr. SCARBOROUGH, and Mr. TRAFICANT) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To protect sports fans and communities throughout the Nation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fan Freedom and
5 Community Protection Act of 1995”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) The name of a professional sports team is
4 always linked to the name of the community in
5 which it is located.

6 (2) Communities, sports fans, and taxpayers
7 make a substantial and valuable financial, psycho-
8 logical, and emotional investment in their teams and
9 their teams' names.

10 (3) Professional sports teams promote civic
11 pride, and generate jobs, revenues, and other local
12 economic development.

13 (4) Professional sports teams remain in com-
14 munities for generations and represent much more
15 than a business.

16 (5) Current law does not protect the rights of
17 sports fans nor the interests of communities when a
18 professional sports team decides to relocate.

19 (6) Professional sports team owners are posi-
20 tioned to extract enormous benefits from commu-
21 nities, and they are taking advantage of these oppor-
22 tunities.

23 (7) Professional sports teams and leagues have
24 directly benefited from Federal legislation, including
25 the following:

1 (A) Public law 87–331 (15 U.S.C. 1291 et
2 seq; commonly referred to as the Sports Anti-
3 trust Broadcast Act of 1961).

4 (B) Public law 89–800 (80 Stat. 1508;
5 commonly referred to as the Football Merger
6 Act of 1966).

7 (C) Public law 93–107 (87 Stat. 350; re-
8 lating to a prohibition of local television black-
9 outs of network games which were sold out 72
10 hours in advance).

11 (D) Federal tax laws that allow deprecia-
12 tion of player contracts, capital gains, carryover
13 losses, and the formation of Subchapter S cor-
14 porations.

15 (8) The Court of Appeals for the Ninth Circuit
16 ruled in Los Angeles Memorial Coliseum Commis-
17 sion v. National Football League (726 F.2d 1381
18 (9th cir. 1984); commonly referred to as Raiders I),
19 Los Angeles Memorial Coliseum Commission v. Na-
20 tional Football League (791 F.2d. 1356 (9th cir.
21 1986); commonly referred to as Raiders II), and Na-
22 tional Basketball Association v. SDC Basketball
23 Club, Inc. (815 F.2d 562 (9th cir. 1987); commonly
24 referred to as Clippers) that a league has the au-
25 thority to prevent a professional sports team from

1 relocating from one community to another commu-
2 nity.

3 **SEC. 3. TEAM NAME.**

4 (a) CONDITIONS ON APPROVAL OF RELOCATION.—

5 In a case in which a league approves the relocation of a
6 professional sports team from a community described in
7 subsection (b)—

8 (1) the registered mark that is used to identify
9 the professional sports team becomes the property of
10 the league;

11 (2) the league shall reserve the registered mark
12 and any portion of the registered mark for use only
13 by the community from which the team is relocating
14 until the earlier of—

15 (A) the expiration of the registered mark;

16 or

17 (B) the date on which the community in-
18 forms the league that a professional sports
19 team will not be using the registered mark; and

20 (3) the registered mark or any portion of the
21 registered mark may not be used by another profes-
22 sional sports team in the same league.

23 (b) COMMUNITIES COVERED.—A community referred
24 to in subsection (a) is a community in which a professional

1 sports team has been located for a period of at least 10
2 years.

3 **SEC. 4. NOTICE OF PROPOSED RELOCATION OF A PROFES-**
4 **SIONAL SPORTS TEAM.**

5 (a) REQUIREMENT.—A professional sports team
6 owner seeking to relocate the team from one community
7 to another shall provide notice of the proposed relocation
8 to the parties listed in subsection (b) not later than 180
9 days before the commencement of the season in which the
10 professional sports team is to play in the new community.

11 (b) PARTIES.—The notice required under subsection
12 (a) shall be provided to—

13 (1) the local government for the community in
14 which the professional sports team's stadium or
15 arena is located;

16 (2) the owner or operator of such stadium or
17 arena; and

18 (3) each professional sports team that is a
19 member of the league for the professional sport con-
20 cerned.

21 (c) ADDITIONAL REQUIREMENTS.—The notice re-
22 quired under subsection (a) shall—

23 (1) be delivered in person or by certified mail;

1 (2) be published in one or more newspapers of
2 general circulation within the community in which
3 the professional sports team is located; and

4 (3) contain an identification of the proposed
5 new location for the professional sports team, a sum-
6 mary of the reasons for moving the professional
7 sports team based on the factors listed in section 7,
8 and the date on which the proposed change is sched-
9 uled to become effective.

10 **SEC. 5. REQUIREMENT TO MAKE EXPANSION TEAMS AVAIL-**
11 **ABLE TO COMMUNITIES UPON THE FULFILL-**
12 **MENT OF CERTAIN CONDITIONS.**

13 (a) LEAGUE REQUIREMENT TO GRANT FRAN-
14 CHISE.—Not later than 12 months after the submission
15 of the name of an investor under subsection (b) to a
16 league, the league shall grant to the investor a new expan-
17 sion professional sports team franchise from the league
18 at a fee in an amount no greater than an amount equal
19 to 85 percent of the franchise fee charged by the league
20 for the last expansion professional sports team franchise
21 granted by the league.

22 (b) THREE-YEAR OPPORTUNITY FOR INVEST-
23 MENT.—The requirement of subsection (a) applies to a
24 league in any case in which—

1 (1) the league approves, on or after January 1,
2 1993, the relocation of a professional sports team
3 from one community to another;

4 (2) not later than three years after such reloca-
5 tion, the community in which the team was pre-
6 viously located submits to the league the name of an
7 investor to be granted a new professional sports
8 team franchise in such community by the league;
9 and

10 (3) the investor demonstrates that he is finan-
11 cially able to purchase and support a team by plac-
12 ing the amount described under subsection (a), in
13 addition to an amount equal to the sale price of the
14 last professional sports team sale approved by the
15 league, in an escrow account.

16 (c) TEN-YEAR RELOCATION PROHIBITION.—In the
17 case of a grant of a professional sports team franchise
18 under subsection (a), the league may approve a resale of
19 the team, but may not approve a relocation of the team
20 during the ten-year period beginning on the date of the
21 grant of the expansion professional sports team franchise.

22 (d) EXCEPTION.—This section shall not apply in the
23 case of a community with a professional sports team if
24 the team relocates within 60 miles of the community.

1 **SEC. 6. LEAGUE RELOCATION AUTHORITY AND RELOCA-**
2 **TION DETERMINATION CRITERIA.**

3 (a) LEAGUE AUTHORITY.—It is not unlawful by rea-
4 son of the antitrust laws for a professional sports league
5 to enforce rules or agreements authorizing the member-
6 ship of such league to decide whether a professional sports
7 team that is a member of the league may relocate from
8 one community to another.

9 (b) DETERMINATION CRITERIA.—In determining
10 whether to approve or disapprove the relocation of a pro-
11 fessional sports team from one community to another, a
12 league shall make specific findings regarding—

13 (1) the extent to which fan loyalty to and sup-
14 port for the team has been demonstrated during the
15 team's tenure in the community;

16 (2) the degree to which the team has engaged
17 in good faith negotiations with appropriate persons
18 concerning terms and conditions under which the
19 team would continue to play its games in the com-
20 munity;

21 (3) the degree to which the owners or managers
22 of the team have contributed to any circumstances
23 which might demonstrate the need for the relocation;

24 (4) the extent to which the team, directly or in-
25 directly, received public financial support by means
26 of any publicly financed playing facility, special tax

1 treatment, or any other form of public financial sup-
2 port;

3 (5) the adequacy of the stadium in which the
4 team played its home games in the previous season,
5 and the willingness of the stadium, arena authority,
6 or the local government to remedy any deficiencies
7 in such facility;

8 (6) whether the team has incurred net operat-
9 ing losses, exclusive of depreciation and amortiza-
10 tion, sufficient to threaten the continued financial vi-
11 ability of the team;

12 (7) whether any other team in the league is lo-
13 cated in the community in which the team is cur-
14 rently located;

15 (8) whether the team proposes to relocate to a
16 community in which no other team in the league is
17 located;

18 (9) whether the stadium authority, if public, is
19 not opposed to such relocation; and

20 (10) whether there is a bona fide investor offer-
21 ing fair market value for the professional sports
22 team and will retain the team in the current commu-
23 nity.

1 **SEC. 7. ENFORCEMENT.**

2 (a) PENALTIES FOR FAILURE TO COMPLY.—A league
3 that violates the requirement of section 5(a) by failing to
4 grant a new professional sports team franchise—

5 (1) is liable to the community in which the
6 team was previously located for damages equal to
7 three times the purchase price of the team; and

8 (2) is subject to the suspension for one season
9 of its antitrust exemption for pooling the broadcast-
10 ing rights to games under Public Law 87–331 (15
11 U.S.C. 1291 et seq.).

12 (b) ENFORCEMENT BY THE FEDERAL TRADE COM-
13 MISSION.—The provisions of this Act shall be enforced by
14 the Federal Trade Commission under the Federal Trade
15 Commission Act (15 U.S.C. 41 et seq.).

16 **SEC. 8. INAPPLICABILITY TO CERTAIN MATTERS.**

17 Nothing in this Act shall—

18 (1) alter, determine, or otherwise affect the ap-
19 plicability or inapplicability of the antitrust laws, the
20 labor laws, or any other provision of law to the
21 wages, hours, or other terms and conditions of em-
22 ployment of players in any professional sports
23 league, to any employment matter regarding players
24 in any such league or to any collective bargaining
25 rights and privilege of any player union in any such
26 league;

1 (2) alter or affect the applicability or inapplica-
2 bility of the antitrust laws or any applicable Federal
3 or State law regarding broadcasting or telecasting,
4 including those contained under section 1291 of title
5 15, United States Code, to any agreement between
6 any professional sports league or a professional
7 sports team that is a member of the league and any
8 person not affiliated with such a league for the
9 broadcasting or telecasting of the games of such
10 league or members of the league on any form of tele-
11 vision;

12 (3) affect any contract, or provision of a con-
13 tract, relating to the use of a stadium or arena be-
14 tween a professional sports team and the owner or
15 operator of any stadium or arena or any other per-
16 son;

17 (4) exempt from the antitrust laws any agree-
18 ment to fix the prices of admission to sports con-
19 tests;

20 (5) exempt from the antitrust laws any preda-
21 tory practice or other conduct with respect to com-
22 peting sports leagues which would otherwise be un-
23 lawful under the antitrust laws; or

24 (6) except as provided in this Act, alter, deter-
25 mine, or otherwise affect the applicability or inappli-

1 cability of the antitrust laws to any act, contract,
2 agreement, rule, course of conduct, or other activity
3 by, between, or among persons engaging in, conduct-
4 ing, or participating in professional football, basket-
5 ball, hockey, or baseball.

6 **SEC. 9. DEFINITIONS.**

7 For purposes of this Act:

8 (1) ANTITRUST LAWS.—The term “antitrust
9 laws”—

10 (A) has the meaning giving it in subsection
11 (a) of the first section of the Clayton Act (15
12 U.S.C. 12(a)), except that such term includes
13 section 5 of the Federal Trade Commission Act
14 (15 U.S.C. 45) to the extent such section ap-
15 plies to unfair methods of competition; and

16 (B) includes any State law similar to the
17 laws referred to in subparagraph (A).

18 (2) COMMUNITY.—The term “community”
19 means a city, county, parish, town, township, village,
20 or any other general function governmental unit es-
21 tablished by State law.

22 (3) INVESTOR.—The term “investor” means
23 any person or group of persons, including a commu-
24 nity.

1 (4) LEAGUE.—The terms “league” and “profes-
2 sional sports league” mean an association composed
3 of two or more professional sports teams (which
4 have been engaged in competition in their sport for
5 more than seven years) which has adopted, accepted,
6 or put into effect rules for the conduct of profes-
7 sional sports teams which are members of that asso-
8 ciation and for the regulation of contests and exhibi-
9 tions in which such teams regularly engage. The
10 term includes—

- 11 (A) the National Football League;
12 (B) the National Hockey League;
13 (C) the National Basketball Association;
14 and
15 (D) Major League Baseball.

16 (5) LOCATED.—The term “located”, with re-
17 spect to a professional sports team, means situated
18 in the stadium or arena in which the professional
19 sports team plays its home games.

20 (6) PROFESSIONAL SPORTS TEAM.—The term
21 “professional sports team” means any group of pro-
22 fessional athletes organized to play major league
23 football, hockey, basketball, or baseball.

1 **SEC. 10. EFFECTIVE DATE.**

2 This Act takes effect as of August 1, 1995.

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